



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R3-ES-2022-0091; FXES11140300000-223]

Endangered and Threatened Wildlife; Receipt of Habitat Conservation Plan and Applications for Incidental Take Permits for Bat Species in MI, MN, and WI; Availability of Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received three separate applications for incidental take permits (ITPs) under the Endangered Species Act from the Michigan Department of Natural Resources (DNR), Minnesota DNR, and Wisconsin DNR. If approved, the permits would authorize incidental take of the Indiana bat, northern long-eared bat, little brown bat, and tricolored bat. The applicants also have jointly submitted the *Lake States Forest Management Bat Habitat Conservation Plan* (HCP). We make available for public comment the applicants' HCP and announce the availability of a draft environmental assessment, which has been prepared in response to the permit applications in accordance with the requirements of the National Environmental Policy Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Document availability:* Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R3-ES-2022-0091 at <https://www.regulations.gov>.

Comment submission: In your comment, please specify whether your comment addresses the proposed HCP, draft EA, any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <https://www.regulations.gov>. Search for and submit comments on Docket No. FWS-R3-ES-2022-0091.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R3-ES-2022-0091; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

For more information, see **Availability of Public Comments** in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Scott Hicks, Field Supervisor, Michigan Ecological Services Field Office, by email at scott_hicks@fws.gov, or by telephone at 517–351–2555; or Andrew Horton, Regional HCP Coordinator, by email at andrew_horton@fws.gov, or by telephone at 612–713–5337.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received three separate applications from the Michigan Department of Natural Resources (DNR), Minnesota DNR, and Wisconsin DNR for incidental take permits (ITPs) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicants also have jointly submitted the *Lake States Forest Management Bat Habitat Conservation Plan* (HCP) in support of each of their ITP

applications. We make available for public comment the applicants' HCP and announce the availability of a draft environmental assessment, which has been prepared in response to the permit applications, in accordance with the requirements of the National Environmental Policy Act. We request public comment on the application and associated documents.

All three State DNRs have requested 50-year ITPs. The Michigan DNR is applying for an ITP for take of Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), and little brown bat (*Myotis lucifugus*), while the Minnesota DNR and Wisconsin DNR are each applying for ITPs that include take coverage for the northern long-eared bat, tricolored bat, and little brown bat. For each State, implementation of the habitat conservation plan (HCP) would be specific for their respective incidental take for the Indiana bat, northern long-eared bat, tricolored bat, and little brown bat (covered species).

The applicants conduct habitat and forest management activities statewide within their jurisdictions, and the requested ITPs will cover the continuation of the following activities: timber harvest and related forest management practices; forest-related road and trail construction, maintenance, and use; prescribed fire; and implementation of the HCP conservation strategy. Covered lands for the Lake States HCP include all forestlands occurring within the States of Michigan, Minnesota, and Wisconsin that are not owned or managed by the Federal government. Collectively, covered lands consist of approximately 46 million acres (ac), which include forested State DNR lands (9 million ac), county and municipal forestlands (5 million ac), and other non-Federal lands (32 million ac). The applicants jointly have prepared a habitat conservation plan that describes the continued habitat and forest management operations and measures that the applicants would implement to avoid, minimize, and mitigate incidental take of the covered species. The HCP proposes to protect and sustainably manage 9.2 million ac of

covered species habitat over the course of the requested 50-year permit term, and has dedicated annual enhancement of 15,460 ac of Indiana bat summer habitat in Michigan; 146,400 ac of northern long-eared bat summer habitat in the Lake States; 92,367 ac of tricolored bat summer habitat in the Lake States; and 146,400 ac of little brown bat summer habitat in the Lake States. In addition, management and enhancement activities will occur annually on other non-Federal forestlands located on private or county/municipal lands through certificates of inclusion. For Indiana bats, these activities are anticipated on 23,011 ac in Michigan; for northern long-eared bats, on 370,354 ac in the Lakes States; for tricolored bats, on 206,139 ac in the Lake States; and for little brown bats, on 372,427 acres in the Lake States. We also announce the availability of a draft environmental assessment (EA), which has been prepared in response to the permit applications in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

Section 9 of the ESA and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species,] or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of “take”; therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize

the continued existence or adversely modify the designated critical habitat of any listed species.

Applicants' Proposed Project

The applicants request a 50-year ITP to take the four bat species. The applicants determined that take is reasonably certain to occur incidental to enactment of forest and habitat management activities in their respective States within 47 million ac of covered species habitat. The proposed conservation strategy in the applicants' proposed HCP is designed to avoid, minimize, and mitigate the impacts of habitat and forest management on the covered species. The biological goals and objectives are to minimize potential take of the four covered species through minimization measures and to provide habitat conservation measures for the covered species to offset any impacts from implementation of habitat and forest management activities. Based on estimated annual take rates, the estimated level of lethal take from the proposed permit term for Michigan is 2 Indiana bats, 99 northern long-eared bats, 386 little brown bats, and 1 tricolored bat. For Minnesota, the estimated level of lethal take from the proposed permit term is 40 northern long-eared bats, 78 little brown bats, and 1 tricolored bat. For Wisconsin, the estimated level of lethal take from the proposed permit term is 21 northern long-eared bats, 320 little brown bats, and 3 tricolored bats. To offset the impacts of the taking of the covered bat species, the applicants propose to avoid habitat loss-related impacts from habitat and forest management by instituting avoidance measures during the management process, such as avoiding certain activities during the active maternity season, and to implement species habitat protection, enhancement, or restoration. Beneficial and net effects of the conservation strategy include the successful management of forests, which protect potential habitat for bats; site-level maintenance and promotion of roost trees and foraging habitat; the protection and management of covered species' habitat; the

protection and enhancement of caves; and other specific measures that minimize or avoid effects to the covered species.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from two alternatives: a no-action alternative and the applicants' proposed action.

Next Steps

The Service will evaluate the permit applications and the comments received to determine whether the applications meet the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITPs to the applicants.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA, and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
3. Any threats to the Indiana bat, northern long-eared bat, little brown bat, and tricolored bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or EA;

4. Whether the conservation measures outlined in the HCP are sufficient to offset impacts over a 50-year duration; and
5. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**.

We will post on <https://www.regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR 46).

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Ecological Services.*

[FR Doc. 2022-18496 Filed: 8/26/2022 8:45 am; Publication Date: 8/29/2022]